



POLICY STATEMENT

Subject: Harassment, Discrimination, and Retaliation Policy	Prior Version: 05/02/2011	Policy Section: HR
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The Department of Economic Development (DED) is committed to providing a work environment free from sexual harassment and discrimination. The purpose of this policy is to define and prohibit such behavior. DED will promptly address all complaints rendered under this policy in a timely fashion and take appropriate disciplinary action, including dismissal, against those who violate this policy. The complaint process will remain confidential to the maximum extent possible.

Pursuant to this policy, both employees and non-employees are prohibited from harassing or discriminating against staff, customers, and partner employees, whether or not the incidents of harassment or discrimination occur on employer premises or during work hours. **Employees of DED will treat one another and all those with whom they come into contact during the course of business equitably and fairly regardless of age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).** Depending upon the circumstances, this policy may extend beyond normal work hours and cover employee conduct at conferences, meetings, or other events. Please be advised that this policy applies to all employee conduct, regardless of intent.

Resources

- Title VII of the Civil Rights Act of 1964
- The Missouri Human Rights Act, Chapter 213, RSMo
- Missouri Executive Order 10-24
- DED Personal Accountability & Conduct Policy

Definitions

The following definitions are for general reference purposes only and are not intended as a substitute for any legal definitions.

Hostile Work Environment: When discriminatory or harassing conduct creates a work environment that would be intimidating, abusive, hostile, or offensive to reasonable people, or has the purpose or effect of unreasonably interfering with an individual's employment. Most instances of hostile work environment involve pervasive harassment that has a cumulative effect.

Intimate Relationships: Intimate relationships are those that involve dating, sexual activity and/or romantic involvement.



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Power-differentiated Working Relationship: Any work relationship in which one employee supervises or manages (directly or indirectly) another employee OR makes decisions concerning another employee’s terms, conditions or privileges of employment

Protected Categories: Categories of individuals protected by law and/or executive order from any form of discrimination such as: Age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).

Retaliation: Occurs when an employer takes an action or makes an adverse employment decision because an employee reports an incident of harassment or discrimination, or who participates in a related investigation.

Unwelcome Conduct: Conduct may be considered unwelcome if the employee did not solicit or invite it or the employee regarded it as undesirable or offensive.

Discriminatory Harassment

Discriminatory harassment occurs when one individual disparages or shows hostility toward another on the basis of a protected category. Discriminatory harassment is against the law if it is sufficiently severe, pervasive, or persistent so as to interfere with an employee’s work performance or employment opportunities, or create an intimidating, hostile, or offensive environment. Discriminatory harassment might include verbal, non-verbal, physical, or visual harassment based on or related to an individual’s protected category.

The following is a non-exclusive list of behaviors that are inappropriate and, depending on the circumstances, may in and of themselves meet the definition of discriminatory harassment:

- Epithets, “jokes,” or offensive or derogatory comments based upon an individual’s sex, race, color, religion, national origin, age, disability, sexual orientation
- Ethnic slurs, workplace graffiti, or any offensive conduct directed towards an individual’s birthplace, ethnicity, culture, or foreign accent
- Negatively stereotyping an individual based upon a one of the protected categories listed in this policy
- Making, posting, e-mailing or circulating written or graphic material in the workplace that denigrates or shows hostility towards an individual based upon his or her protected status
- Any other threatening or intimidating act that relates to race, gender, sex, color, religion, national origin, age or disability



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Individuals, who engage in discriminatory harassment, as defined by this policy, will be subject to disciplinary action, up to and including termination from employment. DED will determine, with proper regard for all surrounding circumstances, whether a specific act violates this policy.

Sexual Harassment

Sexual harassment is unwelcome verbal, non-verbal, or physical conduct of a sexual nature that affects an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment.

Certain behaviors, such as conditioning promotions, discharge, performance evaluation, pay adjustment, discipline, assignments, or any other condition of employment or career development on submission to unwelcome actions of a sexual nature, always constitute sexual harassment.

The following is a non-exclusive list of examples of behaviors that are inappropriate and, depending upon the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment:

- Sexual advances and propositions
- Requests for sexual favors
- Sexual "jokes," comments, suggestions or innuendo
- Foul or obscene gestures or language
- Display of foul, obscene or offensive printed or visual material
- Physical contact such as patting, pinching, hugging or brushing against another individual's body; or
- Any other unwelcome verbal, physical or visual conduct of a sexual nature

A victim of sexual harassment can be male or female. The victim can be of the same sex as the harasser. Although sexual harassment typically involves a power-differentiated working relationship, individuals in positions of lesser or equal authority can also harass.

Sexual harassment can be physical and/or psychological in nature. It can occur in one instance or as an aggregation of a series of incidents even if one of the incidents considered on its own would not rise to the level of harassment. Sexual harassment does not typically include occasional compliments of a socially acceptable nature.

Individuals who engage in sexual harassment, as defined by this policy, will be subject to disciplinary action, up to and including termination from employment. DED will determine, with proper regard for all surrounding circumstances, whether a specific act violates this policy.



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Employees who DED finds have subjected another employee to unwelcome conduct of a sexual nature, whether such behavior meets the legal definition of sexual harassment or not, will be subject to discipline or other action appropriate to the circumstances.

Retaliation

1. Any employee who reports an incident of harassment or discrimination, or who participates in a related investigation, shall not experience retaliation as a result.
2. Any employee who believes they have been retaliated against should immediately inform his/her supervisor or Human Resources.
3. Any employee who retaliates against another employee for filing a complaint or participating in an investigation of harassment or discrimination shall be subject to disciplinary action.

Reporting Harassment, Discrimination or Retaliation

Employees who feel they have witnessed or been subject to conduct prohibited by this policy in connection with their employment with the Department, or who have questions or concerns about discriminatory harassment, sexual harassment, or retaliation should immediately contact Human Resources in accordance with the following:

Employee Rights and Responsibilities:

1. Employees may report any incident of discriminatory harassment, sexual harassment, or retaliation to the designated human resources coordinator, human resources manager, employee supervisor, or employee manager.
2. Employees are also encouraged to make their unease and/or disapproval directly and immediately known to the offending party. Employees may be able to stop or prevent harassment by informing the offending person that such conduct is unwelcome and offensive and must stop.
3. If an employee does not wish to communicate directly with the offending person, or if such communication has been ineffective, the employee may report the incident immediately.
4. To initiate a formal investigation into an alleged violation of this policy, employees may file a Harassment, Discrimination, and Retaliation Complaint Form (Complaint Form) with the human resources manager or designated human resources coordinator. Human Resources is available to assist the complainant in completing the Complaint Form. To ensure a prompt and thorough investigation, the complainant should provide as many details as possible.
5. If possible, employees should make a written record of the date(s), time(s), witness(es) to and nature of any incident(s) that may violate this policy.



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6. An employee who finds himself or herself involved in an intimate relationship with his or her supervisor or manager is responsible for reporting that involvement to Human Resources. DED will take appropriate action to remove any power differentiation from the relationship.
7. Employees shall discourage discrimination by treating others respectfully and not initiating or participating in conversations or “jokes” about the protected categories listed in this policy.
8. Employees also have the responsibility to discourage sexual harassment by not participating in “jokes” or conversations of a sexual nature and not engaging in or supporting any unwelcome conduct.
9. Any person claiming to be aggrieved by an unlawful discriminatory practice, as defined in Chapter 213, RSMo, may also file a complaint with the Missouri Commission on Human Rights within 180 days of the most recent alleged discrimination.
10. Employees who make false (not including complaints that, even if erroneous, are made in good faith) and/or malicious complaints of harassment, discrimination, or retaliation shall be subject to disciplinary action, up to and including termination.

Management Responsibilities:

1. Immediately report all incidents of harassment or discrimination to the designated human resources coordinator or human resources manager, whether or not the victim of the harassment or discrimination has filed a written complaint.
2. Cultivate and maintain a work environment free from harassment and discrimination and take immediate and appropriate corrective action if incidents or harassment or discrimination occur.
3. Supervisors/managers who knowingly allow or tolerate any form of harassment and/or discrimination are in violation of this policy and are subject to disciplinary action.
4. Supervisors/managers participating in an intimate relationship with subordinate employee(s) or with others where a power-differentiated relationship exists are in violation of this policy and may be disciplined for such conduct, up to and including termination.

Human Resources Responsibilities:

1. Upon receipt of the Complaint Form, the designated human resources coordinator, in conjunction with the human resources manager, will review the complaint and meet with appropriate personnel to obtain all pertinent information.
2. In cases where there is a conflict of interest or perceived conflict of interest, a designee will be assigned to conduct the investigation (e.g. Division of Workforce Development’s Equal Employment Opportunity Officer, a member of the General Counsel team or an outside consultant).
3. Human Resources will ensure that both the complainant and respondent are aware of the gravity of the allegations.



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4. Human Resources will explain the Harassment, Discrimination and Retaliation Policy and complaint investigation procedures to both the complainant and the respondent.
5. Human Resources will explore informal means of resolving the complaint, depending on the seriousness of the conduct alleged.
6. Human Resources will notify the appropriate law enforcement agency if the complaint includes allegations of criminal violations.
7. Human Resources will notify the complainant in writing of its findings. However, Human Resources will not disclose details about the nature or extent of any disciplinary or corrective actions to the complainant(s) and/or witness(es) without compelling reason, such as the complainant's personal safety.

Confidentiality

1. All inquiries, complaints, and investigations related to this policy are confidential unless legally required to be disclosed. Information is revealed strictly on a need-to-know basis. DED protects the confidentiality of information contained in formal complaints and maintains such complaints in a secure file, separate from the employee's personnel file.

Remedial Action and Policy Violation

1. DED will take appropriate remedial action to stop all forms of harassment, discrimination, or retaliation.
2. Employees who are interviewed during an investigation are required to comply with the investigation process to the fullest extent possible. Employees who hinder the investigation process or provide false information are subject to disciplinary action, up to and including termination.
3. Violations of this policy are subject to disciplinary action, up to and including termination.